

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

PLAINTIFF

v.

Case No. 4:09-CR-043

OSCAR AMOS STILLEY

DEFENDANT

DEFENDANT OSCAR STILLEY'S MOTION TO DISQUALIFY STEPHEN P. FRIOT FOR BIAS AND INTEREST AND THE APPEARANCE OF SAME, WITH INCLUDED BRIEF

Comes now Defendant Oscar Stilley (Stilley) and for his motion states:

1. This revocation proceeding is a “criminal prosecution” within the meaning of the 6th Amendment.
2. This Court in the person of Stephen P. Friot is actually biased and prejudiced, and furthermore interested in the outcome of this proceeding, to such extent as to bar him from presiding.
3. There is an appearance that Stephen P. Friot is biased and interested in this litigation, such that the law forbids him to preside.
4. A brief in support of this motion is attached.
5. Stilley reserves and claims the right to rely on any other part of the official record in the captioned case, from the filing of the first docket item forward, as defined by Federal Rule of Appellate Procedure (FRAP) 10(a), in support of his claims and arguments.

WHEREFORE, Stilley respectfully requests that Stephen P. Friot recuse himself from the captioned criminal case; that Judge Friot inform the district court clerk that a duly authorized OKND judge should be randomly selected; and for such other and further relief as may be appropriate whether or not specifically requested.

Respectfully submitted,

By: /s/ Oscar Stilley
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November 12, 2024
Date

BRIEF IN SUPPORT OF MOTION

28 USC 455 provides in pertinent part:

- (a) Any justice, judge, or magistrate [judge of the United States](#) shall disqualify himself in any [proceeding](#) in which **his impartiality might reasonably be questioned**.
- (b) He shall also disqualify himself in the following circumstances:
 - (1) Where he has a **personal bias or prejudice** concerning a party, or **personal knowledge of disputed evidentiary facts** concerning the [proceeding](#);
(Emphases to show claims in this motion)

This Court has committed many wrongful acts against Stilley, *but for* many of which Stilley would never have suffered his wrongful conviction and incarceration. Anyone interested in further information should feel free to read Stilley's [bar complaint against Jeffrey Gallant](#). If that's not enough, that document leads the reader to other material, which at minimum would take many hours to read. It is neither necessary nor productive to say these things again.

THE CORE OF STILLEY'S COMPLAINT – AN EMBEZZLEMENT SCHEME

Judge Friot is knowingly protecting and facilitating an embezzlement scheme, described at [pages 3-5 of a 5-16-2024 letter to Clinton J. Johnson](#), OKND US Attorney. This scheme is being used to steal from the US Treasury and also from the payors of criminal restitution.

On 05/25/2023 Stilley filed [Dkt. 780](#), a motion to allow the use of www.pay.gov as a means of paying criminal financial obligations. On 5-26-2023 at 9:29 AM this Court by [Minute Order 781](#) referred the matter to Magistrate Judge Jayne. Just over an hour later, at 10:34 AM the same day, this Court terminated the referral by [Minute Order 782](#).

The likely basis for this event is as follows. As soon as this order hit the email accounts listed in [#781](#), somebody with an email account at the domain @usdoj.gov made contact with the Court, whether directly or indirectly. They explained that this order is altogether untenable.

Why? Because the US Attorney's Office of the OKND, in concert with many other US Attorneys' offices, and the Administrative Office of the Courts embezzle money from the US Treasury. Stilley's plan to require the US Attorney and the OKND Clerk's office to accept [www.pay.gov](#) for criminal restitution payments would ruin their embezzlement scam altogether.

It would be perfect for payroll services and employers. They would no longer have to send checks or money orders. They would be able to set up automatic deductions, so that the money would be automatically paid, on time, every time, with minimal effort and cost.

For Stilley the benefit would be huge. He would never have to write another check for criminal restitution. He would set up his \$131 per month payments, to be paid on the same day every month, reliably. He would have reliable records, both from his own bank and from [www.pay.gov](#). Stilley's money would automatically be forwarded to the proper payee. There would be virtually no work involved with logging money orders or cashier's checks or cash. The computer would move the money efficiently and accurately.

The fly in this wonderful ointment? Certain lawless individuals in power in the OKND have been stealing the money and using it for their own personal benefit. The *availability* of [www.pay.gov](#) will put OKND Embezzlers, Inc., out of business.

What did this Court do? In the docket entry for [Dkt. 784](#) we can see that the Court ordered the parties to take 28 days to have discussions and come up with:

... arrangements for the payment of dft's restitution installments which will be workable for all concerned and will avoid, to the extent possible, unnecessary transaction costs.

Jeffrey Gallant filed [Dkt. 785](#) as a *sealed* document,¹ inaccessible to the public and the press. Gallant's an incorrigible liar and a *freelance* thief, who doesn't want the public to see what he says. He knows *for a fact* that various officials and employees of the OKND run an embezzlement scheme – and wants to protect it. He most certainly could have told his co-conspirators that the gig is up, they can *keep what they've got*, but can't embezzle *any more* money, because Stilley's about to bust their chops. He chose not to take that course.

This Court in [Dkt. 786](#) *sua sponte* struck [Dkt. 780](#) as moot. Stilley's pretty sure this was done because the principals of OKND Embezzlers, Inc., requested it. That's one of the reasons Stilley needs Stephen P. Friot as a witness – he has *personal knowledge* of relevant facts.

This Court will doubtless want some good evidence of these harsh accusations. That's perfectly fair and will be provided. Consider *US v. Shearer, et al*, Eastern District of California (CAED) [Case No. 2:12-CV-02334](#).

The government presented declarations under penalty of perjury that all credits against the account of Dr. L. Richard & Diane Shearer had been accounted for. [Dkt. 37-41](#).² They claimed that the Shearers owed \$368,377.94 as of 9/30/2014. [Dkt. 86](#). They got a partial summary judgment in that amount. *Id*.

A certain disbarred and disgraced former lawyer happened to notice that the Shearers hadn't gotten credit for the \$5,000 paid as restitution in *US v. Bullock, et al*, Eastern District of California (CAED) [2:00-cr-00345](#).³ Someone suggested that Diane Shearer proceed *pro se*. A

¹ Note the lack of filemark headers at the top.

² Most of the links are to the CourtListener docket. The reader can click through from there to the appropriate pleading.

³ CourtListener has at least the last two pleadings in this case, (167 & 168) but their buttons don't light up.

registered nurse by training and experience, she's an amazing legal writer – with a little help from her friends.

In late 2021 or early 2022, Attorney Joe Izen⁴ called counsel for the government about the fact that their statements of account omitted the \$5,000 criminal restitution payment.

They clammed up, but they got the memo! On 2-1-2022 they filed in the criminal case [Dkt. 167](#), a motion for an order of disbursement of the \$5,000. The motion was granted the next day, in [Dkt. 168](#). None of the attorneys on the criminal case were served with the motion or the order.⁵ There was no certificate of service. It appears that the failure to serve opposing counsel (including two lawyers of record on both the civil and criminal cases) was intentional, in furtherance of devious purposes.

On 2-11-2022, Attorney Joe Izen sent a [letter to counsel](#) for the government in the civil case. The government ignored this letter. They had already filed the motion and received the order in the criminal case but stayed strictly mum about that. It isn't reasonable to presume that the lack of service (and also a certificate thereof) of the criminal motion was an oversight. They didn't want the affected parties to know about the motion and order in the criminal case.

Diane Shearer discharged her attorney and proceeded pro se. On 9-19-2022 she wrote a letter to counsel for the government asking why they'd clammed up. [Dkt. 141 pg. 23](#). This too was ignored. On April 5, 2023, she sent yet another letter, [Id. at 26](#)⁶ suggesting fraud on the part

⁴ Representing certain other defendants in the case.

⁵ Nothing herein should be construed as a suggestion that the judge who signed the order was aware that the order wasn't going to be duly served, or aware of anything else nefarious.

⁶ The May 12, 2023 date on the letter is wrong. See the footnote at [Dkt. 144, pg. 13](#). See also the first line of government's [response letter April 11, 2023](#).

of government, amongst other things for refusing to respond to communications about the missing money.

By letter April 11, 2023 ([Dkt. 141 pg. 31](#)) -- the government sent an evasive and vapid response pretending that *the criminal judgment* mistakenly instructed Dr. Shearer to direct restitution payments to the *wrong party*.

Diane Shearer filed a 10-page brief ([Dkt. 141-1](#)) proving that the government obtained its partial summary judgment ([Dkt. 86](#)) by falsehoods they were duty bound to correct. The government responded in opposition. [Dkt. 142](#). Diane Shearer replied on 6-12-2023. [Dkt. 144](#).

The District Court in a minute order at [146](#) vacated the hearing on Diane Shearer's motion. The judgment at [Dkt. 86](#) was reduced by exactly \$5,000. *Id.*

We should all be satisfied, right? The judgment was reduced by \$5,000. However, the value of \$5,000 in 2005, approximately the time of payment, is equal to approximately \$8,000 in cash at the time of the minute order in 2023. Plus that order ignored other amounts including but not limited to the prison wages of Dr. Shearer.

That's not the worst of it. *Not even close.*

Three defendants paid court-ordered restitution of \$5,000 each. See [Minutes for Dkt. 117, 118 and 120](#). The government knew exactly who had paid restitution. Look at the title of their motion. [Dkt. 167](#). Look at the text of the motion, and the relief granted. [Dkt. 168](#). The government had a duty to remit not \$5,000 to the US Treasury, but \$15,000.⁷ The embezzlers had stolen the restitution money of *all three defendants*. They got an order to pay the restitution

⁷ Actually more than \$15,000, because they collected and stole other funds as well.

of all three over to the US Treasury. They only paid the \$5,000 of Dr. L. Richard Shearer. They **did not** pay over the \$5,000 payments of Dr. Bullock or Dr. Pfeiffer.

Why? Because the powerbrokers of CAED US Attorney's office, and others in that district and at many other US federal districts, and at the Administrative Office of the Courts, are *embezzlers*.

Does the government's theory of *incapacity* to pay the IRS, based on the language of a judgment *they most probably drafted or at least contributed to*, make any sense? Absolutely not. The restitution collected was held *in trust* for the US Treasury.

Here's how it works. They collect money in a way that will create the weakest possible paper trail. That's why they won't take personal checks. A bounced check will cost \$53, and exposes the supervisee to 2 years in prison, an infamous crime if such thing exists. Criminal defendants have no interest in bouncing checks. The principals of Embezzlers, Inc.,⁸ don't want checks because they create a paper trail. The criminal defendant can prove the exact amount and timing of the criminal restitution payments 10 or 20 years later. The banks *have to keep the records*.

The use of www.pay.gov is pure poison to Embezzlers, Inc.⁹ The money will hit the government's account *every time on time*. Any auditor will insist that the money be disbursed – especially to payees such as the US Treasury – probably the next day, or at least within scant

⁸ The parent company of OKND Embezzlers, Inc.

⁹ While Stilley was making inquiry of the proper personnel of OKND, he learned that the pressure to refuse to allow www.pay.gov came from the Administrative Office of the Courts. That's how Stilley knows they're involved. People virtually always behave *in ways they perceive to be in their own economic interests*.

days. The payments will be automated, and out of the reach of the sticky little fingers of federal prosecutors.

If www.pay.gov is an authorized method of payment, the thieves can't obfuscate the record. They can steal little if anything, and only at great risk to themselves. ***They're screwed.*** They'll have to content themselves with their lavish taxpayer supplied salaries and luxurious perks.

How much did they steal in CAED? It's impossible to know, but the presence of over \$600,000 ([Dkt. 141, pg. 18-21](#)) in unclaimed funds proves they've stolen that ***far more*** than that. They've been running their scam for at least two decades. Their *modus operandi* is to transfer it from one account to another, always but always making sure they have enough money to pay back any sums upon complaint by the aggrieved party.

Consider now the logic of saying that three slugs of \$5,000, allegedly due to the US Treasury, are ***all*** unclaimed funds. The US Treasury is less than 2 miles from the US Department of Justice. In other words, the powerbrokers who have emails at the domain @usdoj.gov have their office literally in walking distance of one of their biggest clients. Yet they falsely claim that funds payable to the US Treasury are "unclaimed." It's their ***client***, for Pete's sake. They claim they can't find their ***own client*** – as soon as *the restitution check clears the bank!*

Why didn't they pay the ***other two*** \$5,000 restitution payments, after getting caught with their hands in the cookie jar? Because they're convinced that the other two payors won't make an issue of it. They can use the prosecutorial might of the US Department of Justice, to bully their victims into silence.

How do we know that money wasn't paid? It's pretty easy to ask friends. If the government wants to claim that Stilley is lying or exaggerating, they should feel free to produce

evidence from official records, proving that the restitution of Dr. Bullock and Dr. Pfeiffer was 1) paid over to the US Treasury, and 2) that these two good doctors got their constitutionally required *due process notice* that the money was paid. After all, Judge Friot said that all the facts are up for decision. [Dkt. 807 pg. 2](#).¹⁰

Why? Because it is *restitution*. They're entitled to show the \$5,000 restitution as a deposit of taxes, essentially a prepayment, on a current tax return. A restitution payment to the IRS can be separated into two separate and distinct events: 1) the IRS gets tax money, 2) the restitution payor gets a credit against his tax liabilities. The embezzlers of OKND and CAED have stolen from the IRS, and *also* from the payors of criminal restitution.

The government holds restitution money *in trust nevertheless*, for the benefit of the true owner. Restitution money collected *is not* the property of the Clerk, or the US Attorney's Office, or their "Financial Litigation Unit." Restitution money is held in trust for the injured party. In *US v. Bullock et al*, the injured party is the US Treasury.

What's the rule for trust funds? Justice Benjamin Cardozo said it well when he said trustees owe the beneficiaries *the punctilio of honor the most sensitive*. *Meinhard v. Salmon*, 164 NE 545, 249 NY 458, 229 NYS 345 (1928) If you don't know where the money goes, you do one of three things; 1) find the true owner and pay the money over, promptly, 2) move the court for instructions, with 5th Amendment due process notice and opportunity for the criminal defendant to be heard, or 3) return the money to the criminal defendant. Restitution orders in criminal judgments are not designed to enrich crooks in US Attorney's Offices, etc. They're designed to *make injured parties whole*.

What does Stephen P. Friot stand to gain by sending Stilley to prison?

¹⁰ Defenses and affirmative defenses logically have to be included in that calculus.

- 1) Stilley's meritorious petition for certiorari to the US Supreme Court in [Stilley v. Thurston et al](#),¹¹ Ark. Sup. Ct. 24CV453 is almost certainly destroyed. The [dismissal of Stilley's petition](#) was founded solely upon the theory that Stilley's voter registration wasn't valid – which requires the overruling of decades of 6th Amendment precedent.
- 2) Stilley's ability to defend [State v. Stilley](#), a frivolous state perjury charge, gets bombed back into the stone age.
- 3) Stilley's ability to prosecute an appeal in this case is likewise rendered exceedingly difficult if not impossible.
- 4) Stilley's ability to prosecute a declaratory judgment action, in which requests for admissions must be **actually answered**, is nearly destroyed.
- 5) Stilley's ability to appeal the denial of ethics charges to the California Supreme Court for all practical purposes vanishes.
- 6) Judge Friot silences Stilley's complaints about the embezzlement racket of *inter alia* the OKND.

Who disbelieves the guilt of Oscar Stilley? Consider this short list:

- 1) Five of the best hotshot lawyers at the Arkansas Attorney General's Office obviously don't believe Stilley's guilty – they [defaulted on three motions](#), two of which were dispositive.
- 2) Six judges of the Arkansas Supreme Court – they didn't even acknowledge the defaulted motions or the pending discovery, in their [per curiam dismissal order](#).

¹¹ The official docket and pleadings are available [here](#).

- 3) Kevin Holmes, Crawford County Prosecutor who stalled as long as possible, then [charged Stilley with gibberish](#) that does not even arguably allege a crime.

Judge Friot has already told the prosecutors in this case that they should feel free to disregard allegations “which question or challenge any aspect of the validity or legality of the underlying prosecution and convictions.” [Dkt. 775](#). In other words, they should feel free to disregard the [oath of Oklahoma attorneys at law](#). Falsehoods once uttered must never be corrected. Furthermore, an unquestionably **void** judgment must be honored as if it were valid. If that’s not proof of a belief that Stilley is innocent, please say what is.

What did Judge Friot say about the harsh effects of incarceration on a criminal defendant? See [Sentencing TR 466-467](#):

24 On the issue of remand, let me first say, gentlemen, that
25 I am fully cognizant of the seriousness of this question,
466
1 especially as it applies in your situation having invoked your
2 right, as you have, and it's an important right, to represent
3 yourselves. And I am fully cognizant of the fact that
4 incarceration may well have some impact on your ability to
5 proceed representing yourselves. **To the extent that the Court
6 can within the bounds of the law and common sense ameliorate
7 that, then I will be happy to consider anything that the Court
8 might properly address in that regard.**
(Emphasis added)

Here’s how the Court can ameliorate the hardships of incarceration. This is the hierarchy of best to worst, assuming a judgment of incarceration:

- 1) Stay pending appeal;
- 2) Home confinement, of which Stilley has already served almost 2 years, as a model prisoner;
- 3) Self-reporting to prison, preferably after a time to put affairs in order, perhaps 60 days;

- 4) Sending Stilley to jail immediately. In that case Judge Friot will inflict the maximum devastation on Stilley's ability to defend on appeal.

Defendant's father Ed Stilley had a saying that he used regularly. "Tell the truth if it takes the hair and the hide." Stilley assumes he could get a better deal by falsely confessing to a crime he did not commit. **No deal!!** Stilley wants due process, which includes an honest, competent tribunal not affected by bias, prejudice or interest, or the appearance of same.

Judge Friot has no right to sit on this case, because he has made himself the functional equivalent of the driver of a getaway car for a pack of thieves. He *knows* he's helping liars and thieves. Perhaps he forgets that Stilley was charged not only as principal but also as accessory. [18 USC 2](#). See the indictment at [Dkt. 2 pg. 9 & 11](#).

Before Stilley's offer, consider Stilley's Freedom of Information Act (FOIA) request in his [letter 5-16-2024](#) to Clinton J. Johnson.¹² Stilley on 5-20-2024 received an [acknowledgement and extension of time](#). Almost 6 months later, Stilley has received no further communication. Stilley's FOIA request consists of only 4 paragraphs of rather simple information. The mighty bureaucracy of the US Department of Justice feigns inability to timely comply with the FOIA. We're witnessing stonewalling – neither more nor less.

Here's Stilley's offer to the US Department of Justice and the thieves within it. 1) Quit stealing, 2) Authorize www.pay.gov for criminal restitution on a national basis; 2) Give Stilley a chance to persuade the victims of the theft to forgive the trespasses of the thieves at the US Department of Justice. You **read that right**. After all the money they've stolen, all the lives they've crushed, all the cruelty they've inflicted on others, they can ***walk away without paying back the money they've stolen***.

¹² US Attorney for the Northern District of Oklahoma.

To do this, Stilley needs access to an official at the US Department of Justice able to bind all persons with an email address at the domain @usdoj.gov.

Don't say it's impossible until Oscar Amos Stilley gets a chance. Stilley is speaking ***based on knowledge***. Stilley wants *peace in the valley* – the very thing Judge Friot claimed to want. See [Revocation TR 10, lines 18-23](#).

It gets better. For every dollar of forgiveness to a thief in the US Department of Justice, the taxpayers will save at least \$2 and probably a lot more. This isn't a zero sum game.

He who covers his sins will not prosper. [Proverbs 28:13](#). Some people make a business of uncovering the sins of others. For example consider this article about [a TV executive threatened with jail for running ads in favor of an abortion amendment](#). Or consider an article about a lawyer in a state agency who [resigned rather than continue to sign such letters threatening persons for exercising 1st Amendment rights](#). The lawyer's best line? "A man is nothing without his conscience."

Will the press maintain silence if this Court incarcerates the ***one person*** with the right *and political will* to file a petition for certiorari to the US Supreme Court in [Stilley v. Thurston et al](#)? If jailing Stilley for that litigation isn't retaliation for 1st Amendment peaceful petition, etc., what does it take?

Stilley has a peculiar habit. He's written a book about it. [Hunger Striker's Guide to Juice Fasting](#). Stilley has filled out the medical record releases and made them available to his friends and family. This isn't a threat to hunger strike – far from it. Stilley doesn't *threaten* hunger strikes. He either does one or he doesn't.

Stilley can be incarcerated without a hunger strike. If the Court rejects this motion and wishes to incarcerate Stilley while keeping "peace in the valley" here's how to do it.

- 1) Don't tolerate any degradation of Stilley's ability to appeal. Stilley has his files synched to the web via OneDrive. That would allow Stilley's files to follow him to any institution of confinement. Stilley depends on a computer with his chosen software, a printer, a scanner, supplies, unlimited phone and email access, and the ordinary requirements of an office, accessible at least 12 hours per day. Ensure that Stilley and all his fellow inmates have access to such tools for legal purposes, whether or not they're represented by counsel.
- 2) Don't allow anyone to starve out Stilley or his fellow inmates.
- 3) Don't allow anyone to deprive Stilley of a decent bed and pillow, something that won't degrade his sleep or destroy his back.

If that's any trouble, home confinement is easy. That degrades Stilley's litigation capabilities little to none.

At some point in time it occurred to Stilley that he's the best pretender at believing that the judgments against him are valid. The time for *pretending* is over. It's time for Stilley to *awaken his conscience*.

CONCLUSION

Judge Friot is disqualified by actual bias, personal interest, and prejudice against Oscar Stilley, along with the appearance of same. Recusal is mandatory.

Respectfully submitted,

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November 12, 2024
Date

CERTIFICATE OF SERVICE

Defendant Stilley hereby certifies that on the date stated above he electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, thereby serving all persons having ECF privileges and entitled to service in this case.